vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.617 OF 2003

Prabhakar Appasaheb Bhise
At present in Yerawada Central
Prison, Pune ... Appellant

V/s.

The State of Maharashtra
(at the instance of Sangole
Police station) ... Respondent

None for Appellant
Mrs.P.H. Kantharia, APP, for Respondent

CORAM: **V.G. PALSHIKAR, Ag. C.J. & SMT.NISHITA MHATRE, J.**

DATED: **AUGUST 28, 2006**

ORAL JUDGMENT (PER SMT.MHATRE, J.):

. The appellant has challenged his conviction under sections 302 and 498A of the Indian Penal Code and the sentence imposed upon him by the Additional Sessions Judge, Pandharpur.

2. The case of the prosecution in brief is that the accused appellant subject the deceased, his wife, to cruelty by often beating her. This beating was on account of his unsatiated demands for money. The deceased Mangal was married to the appellant for about 10 yeas and they had two daughters. The appellant worked on agricultural lands alongwith his wife. He desired to install a pipeline for his lands for which he required Rs.15000/-. He insisted on Mangal satisfying

this demand for money through her parents and brother. It appears that the parents of the deceased were unable to satisfy this demand. The appellant, therefore, dropped her at her brother's place. After eight days on 7.3.2000, when Mangal was having her afternoon nap, the appellant entered the house and pulled her out of the house. He started beating her in the presence of her mother Laxmi and her daughter. He pushed her a certain distance from the house. Her mother followed them and witnessed the appellant push the deceased to the ground, put his legs on her chest and give severe blows with a chopper on her head and her left cheek. The mother shouted, hoping that somebody would rescue her daughter. A few people were approaching the spot when the appellant noticed them. He therefore fled away, leaving his wife in a pool of blood. She was then lifted on a bullock cart in order to take her to village Yelvi, accompanied by her mother and other persons. The appellant's brother who approached them from the opposite direction was told of the incident. He then complained to the police. Investigations were carried out by the police. The appellant was arrested on 9.3.2000, wearing a blood stained shirt. The necessary Panchanamas were drawn up and various articles including the clothes of the deceased and the appellant were seized and sent for examination to the Chemical Analyser. An autopsy was conducted at Jat Rural hospital. After the investigations were complete, the

appellant was chargesheeted and committed to the Court of Sessions for trial.

3. The prosecution has relied on the evidence of two eye witnesses. PW3, the mother of the deceased, PW5, her neighbour. PW3 has described the ill treatment meted out to the deceased by the appellant. She has then described the incident that she witnessed on 7.3.2000. She has described how the appellant pushed the deceased to the ground and placed his knees on her chest. She has also narrated that the appellant pierced the cheek of the deceased and that he assaulted the deceased on her head with a chopper. She has deposed that she shouted for help when PW7 arrived at the spot, besides other persons. She has mentioned that the appellant on seeing these persons approaching the spot, ran away. According to her, PW5 helped with his bullock cart in which he and others accompanied Mangal who was then breating her last. She has categorically stated that the only reason that the appellant was harassing the deceased was that his demands for money had remained unfulfilled. PW3 has also stated that she accompanied her daughter in the bullock cart and narrated the incident to her son PW4 whom she met on the way.

4. PW5 has corroborated the evidence of PW3 in all material respects. He has stated that he witnessed the incident from about 100’ to 250’. He has also seen the

appellant run away from the spot with the blood stained clothes. He has then deposed that he used his bullock cart to remove the deceased to hospital.

5. PW4 also has corroborated the version of his mother PW3 that they met while the deceased was being taken to Yelvi in a bullock cart. He has also stated that he lodged a complaint with the police.

6. All these witnesses corroborate each other's testimonies. They have withstood the cross examination. Their version in their respective examinations in chief regarding the dastardly attack on the deceased has not been shaken.

7. The medical evidence on record indicates that the injuries sustained by the deceased correspond with the nature of the assault described by PW3. PW1 is the Doctor who has been examined. He is the Doctor who conducted the postmortem examination on the deceased. One of the injuries listed at Item 3 in his evidence is of an incised wound on the left cheek. This tallies with the deposition of PW3 that the appellant had pierced the cheek of the deceased with a chopper. The other injuries sustained by the deceased are those sustained on the head of the deceased. The cause of death mentioned in the postmortem report is cardio respiratory failure due to the head injuries.

8. All these facts lead us to accept the case of the prosecution. Besides this, when the appellant was arrested, he was wearing a blood stained shirt which has been seized. The Chemical Analyser’s report indicates that the stains were of human blood although it was not possible to analyse the blood group.

9. We, therefore, have no hesitation in upholding the impugned judgement. The learned Sessions Judge has correctly appreciated the evidence and there is no perversity in his findings. In order to satisfy ourselves, we have reappreciated the entire evidence on record and have arrived at the same conclusion as the learned Sessions Judge.

10. Appeal dismissed. The conviction and sentence imposed on the accused by the Additional Sessions Judge, Pandharpur is confirmed.